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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,290	03/16/2001	Rudy Hoebeke	Q63420	4960

7590 06/15/2005
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EXAMINER

YAO, KWANG BIN

ART UNIT PAPER NUMBER

2667

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/809,290	Applicant(s) HOEBEKE ET AL.	
	Examiner Kwang B. Yao	Art Unit 2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 1-5,7,9 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6,8 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/16/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1, 2, 6, 7 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility.

As admitted by the Applicant on the Response to Restriction Requirement filed on 2/18/05, claim 6 could not operate without the limitations in claim 7; claim 7 could not operate without the limitations in claim 6; claim 1 could not operate without the limitations of claim 6 or claim 7; claim 2 could not operate without the limitations of claim 1.

Election/Restrictions

3. Applicant's election with traverse of Group III in the reply filed on 2/18/05 is acknowledged. The traversal is on the ground(s) that claims 1, 2, 6, 7 could not operate without the limitations of some claims belonging to other groups. This is not found persuasive because there is separate utility found in Group I that can not be found in Group II, III, IV; there is separate utility found in Group II that can not be found in Group I, III, IV; there is separate utility found in Group III that can not be found in Group I, II, IV; there is separate utility found in Group IV that can not be found in Group I, II, III.

Moreover, Examiner appreciates Applicant points out that there are some typographical errors in last office action regarding Group III, and IV

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 6, 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Araujo et al. (US 6,097,720).

Araujo et al. discloses a communication system comprising the following features: regarding claim 6, Internet access server NAS (FIG. 1, RAS 11; FIG. 9, RAS 110; FIG. 11, RAS 408) that has an interface to an Internet access network AN (FIG. 11, CARRIER NETWORK 407), via which at least one channel of a subscriber (FIG. 11, CPE 400, 401, 402, 403, 404) PC1, PC2, . . . , PCn can be set up for his individual tunnel connection (FIG. 11, TUNNEL 412, 420), and setting-up means are provided in order to set up further channels MVCC (column 6, lines

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54-57; column 10, lines 36-40; column 11, line 15 to column 12, line 33), AVCC, characterised in that provision means are provided in order to provide the data specific to one or more subscriber (FIG. 11, CPE 400, 401, 402, 403, 404)s PC1, PC2, in particular multicast data, on a further channel MVCC (column 6, lines 54-57; column 10, lines 36-40; column 11, line 15 to column 12, line 33) instead of on the channels VCC1, VCC2 exclusively specified for said data, and additional protocol execution means for executing an additional protocol AP are provided in order to inform a network element CPNT terminating the local network LN (column 6, lines 54-57; column 10, lines 36-40; column 11, line 15 to column 12, line 33) of the subscriber (FIG. 11, CPE 400, 401, 402, 403, 404)s PC1, PC2, . . . , PCn, which subscriber (FIG. 11, CPE 400, 401, 402, 403, 404)s PC1, PC2 should receive these data; regarding claim 8, Program module for executing an additional protocol AP in a network element NAS (FIG. 1, RAS 11; FIG. 9, RAS 110; FIG. 11, RAS 408) remote from the subscribers (FIG. 11, CPE 400, 401, 402, 403, 404), with the steps: Detection of the subscriber's request (FIG. 10, MULTICAST JOIN 211) of a subscriber (FIG. 11, CPE 400, 401, 402, 403, 404) PC1, PC2, . . . , PCn to a multicast group by evaluation of the protocol message for participation in a multicast group IGMP, and Sending an additional message (FIG. 10, MULTICAST FEED 213) ASSOCIATE to a network element CPNT (FIG. 9, Access MUX 102; FIG. 11, , EDGE DEVICE405) local to the subscribers (FIG. 11, CPE 400, 401, 402, 403, 404), with the information about that subscriber or those subscribers PC1, PC2 to which the data of a multicast channel MVCC (column 6, lines 54-57; column 10, lines 36-40; column 11, line 15 to column 12, line 33) are to be transmitted. See column 6-12.

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Araujo et al. (US 6,097,720) in view of Aras et al. (US 5,867,653).

Araujo et al. discloses the claimed limitations above. Araujo et al. does not disclose the following features: regarding claim 10, Detection of the request for ending the participation of a subscriber PC1, PC2, . . . , PCn in a multicast group by evaluating the protocol messages for participation in a multicast group IGMP, and Sending an additional message STOP ASSOCIATION to the network element CPNT local to the subscribers, with the information about those subscribers PC1, PC2, . . . , PCn which should no longer receive any further data of a specified multicast channel MVCC.

Aras et al. discloses a communication network comprising the following features: Detection of the request for ending (FIG. 10, STEPS 1007, 1009, 1011) the participation of a subscriber (FIG. 2, MULTI-CAST CLIENT 207A, 207B, 207C) PC1, PC2, . . . , PCn in a multicast group by evaluating the protocol messages for participation in a multicast group IGMP, and Sending an additional message (FIG. 10, STEPS 1007, 1009, 1011, 1013) STOP ASSOCIATION to the network element CPNT (FIG. 2, ARBITRATION 205) local to the subscribers (FIG. 2, MULTI-CAST CLIENT 207A, 207B, 207C), with the information about those subscribers (FIG. 2, MULTI-CAST CLIENT 207A, 207B, 207C) PC1, PC2, . . . , PCn which should no longer receive any further data of a specified multicast channel MVCC. See

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Abstract, and column 3-18. It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Araujo et al., by using the features, as taught by Aras et al., in order to provide efficient bandwidth utilization of a communication network. See Aras et al., column 2, lines 33-34.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gupta et al. (US 6,718,387) discloses a method for load balancing.

Haggerty et al. (US 6,331,983) discloses a multicasting switching network.

Bottle et al. (US 4,654,866) discloses an integrated communication system.

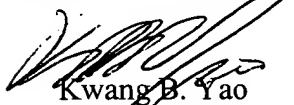
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwang B. Yao whose telephone number is 571-272-3182. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KWANG BIN YAO
PRIMARY EXAMINER



Kwang B. Yao
June 10, 2005